

Message Text

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46

ACTION EB-06

INFO OCT-01 EUR-12 ISO-00 L-02 IO-10 AF-10 ARA-10 EA-10

NEA-10 RSC-01 CAB-05 CIAE-00 COME-00 DODE-00 DOTE-00

INR-07 NSAE-00 FAA-00 OIC-02 /086 W

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R 222047Z OCT 74

FM AMCONSUL MONTREAL
TO SECSTATE WASHDC 5509

UNCLAS SECTION 1 OF 2 MONTREAL 1671

FROM USDEL ICAO, LEGAL COMMITTEE

E. O. 11652: N/A

TAGS: EAIR, ICAO

SUBJ: LEGAL COMMITTEE, 21ST SESSION

WITH RESPECT TO THE PROVISIONS ON DOCUMENTATION, THE LEGAL COMMITTEE DECIDED IN FAVOR OF THE FOLLOWING TEXT: ARTICLE 5.
(1) IN RESPECT OF THE CARRIAGE OF CARGO AN AIR WAYBILL SHALL BE DELIVERED. (2) ANY OTHER MEANS WHICH WOULD PRESERVE A RECORD OF THE CARRIAGE TO BE PERFORMED MAY, WITH THE CONSENT OF THE CONSIGNOR, BE SUBSTITUTED FOR THE DELIVERY OF AN AIR WAYBILL. IF SUCH OTHER MEANS ARE USED THE CARRIER SHALL, IF SO REQUESTED BY THE CONSIGNOR, DELIVER TO THE CONSIGNOR A GOODS RECEIPT FOR THE CARGO PERMITTING IDENTIFICATION OF THE CONSIGNMENT. END TEXT NOTE: FRANCE PROPOSED AN AMENDMENT TO ARTICLE 5 (1) MAKING IT MANDATORY FOR THE CARRIER TO DELIVER A RECEIPT FOR THE CARGO UNLESS CONSIGNOR WAIVED HIS RIGHTS TO SUCH RECEIPT. THIS WAS DEFEATED 14 IN FAVOR, 16 AGAINST (US) AND 2 ABSTENTIONS. CZECHOSLOVAKIA PROPOSED, SECONDED BY SWEDEN, THAT IF SUCH OTHER MEANS ARE USED THE CARRIER SHALL, IF SO REQUESTED BY THE CONSIGNOR, DELIVER A RECEIPT FOR THE CARGO. THIS PROPOSAL WAS ACCEPTED 30 IN FAVOR (US), NONE OPPOSED AND ONE ABSTENTION. PROMPTED BY COMMENTS OF UK, MOST SIGNIFICANT DRAFTING CHANGE MADE IN LEGAL COMMITTEE WAS SUGGESTED BY JAMAICA. PROPOSAL ALLOWS CONSIGNOR TO BLOCK CARRIERS USE OF UNCLASSIFIED

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MEANS OTHER THAN AN AIR WAYBILL, BY INSERTING OF THE WORDS

"WITH THE CONSENT OF THE CONSIGNOR". THE VOTE ON THIS POINT
WAS 16 IN FAVOR, 8 OPPOSED (US) AND 1 ABSTENTION. BEGIN TEXT
ARTICLE 6. (1) THE AIR WAYBILL SHALL BE MADE OUT BY THE CONSIGNOR
IN THREE ORIGINAL PARTS. (2) THE FIRST PART SHALL BE MARKED
"FOR THE CARRIER", AND SHALL BE SIGNED BY THE CONSIGNOR. THE
SECOND PART SHALL BE MARKED "FOR THE CONSIGNEE"; IT SHALL BE
SIGNED BY THE CONSIGNOR AND BY THE CARRIER. THE THIRD PART SHALL
BE SIGNED BY THE CARRIER AND HANDED BY HIM TO THE CONSIGNOR
AFTER THE GOODS HAVE BEEN ACCEPTED. (3) THE SIGNATURES OF THE
CARRIER AND THE CONSIGNOR MAY BE PRINTED OR STAMPED. (4) IF,
AT THE REQUEST OF THE CONSIGNOR, THE CARRIER MAKES OUT THE
AIR WAYBILL, HE SHALL BE DEEMED, SUBJECT TO PROOF TO THE CONTRARY,
TO HAVE DONE SO ON BEHALF OF THE CONSIGNOR. ARTICLE 7. THE
CARRIER OF CARGO HAS THE RIGHT TO REQUIRE THE CONSIGNOR TO MAKE
OUT SEPARATE AIR WAYBILLS WHEN THERE IS MORE THAN ONE PACKAGE.
ARTICLE 8. THE AIR WAYBILL SHALL CONTAIN: A. AN INDICATION OF
THE PLACES OF DEPARTURE AND DESTINATION; B. IF THE PLACES OF
DEPARTURE AND DESTINATION ARE WITHIN THE TERRITORY OF A SINGLE
HIGH CONTRACTING PARTY, ONE OR MORE AGREED STOPPING PLACES
BEING WITHIN THE TERRITORY OF ANOTHER STATE, AN INDICATION OF
AT LEAST ONE SUCH STOPPING PLACE. ARTICLE 9. NON-COMPLIANCE
WITH THE PROVISIONS OF ARTICLES 5-8 ABOVE SHALL NOT AFFECT THE
EXISTENCE OR THE VALIDITY OF THE CONTRACT OF CARRIAGE, WHICH
SHALL, NONE THE LESS, BE SUBJECT TO THE RULES OF THIS CONVENTION
INCLUDING THOSE RELATING TO LIMITATION OF LIABILITY. ARTICLE 10.
(1) THE CONSIGNOR IS RESPONSIBLE FOR THE CORRECTNESS OF THE PART-
ICULARS AND STATEMENTS RELATING TO THE CARGO WHICH HE INSERTS
IN THE AIR WAYBILL. (2) THE CONSIGNOR SHALL INDEMNIFY THE CARRIER
AGAINST ALL DAMAGE SUFFERED BY HIM, OR BY ANY OTHER PERSON TO
WHOM THE CARRIER IS LIABLE, BY REASON OF THE IRREGULARITY,
INCORRECTNESS OR INCOMPLETENESS OF THE PARTICULARS AND STATEMENTS
FURNISHED BY THE CONSIGNOR. ARTICLE 11. (1) THE AIR WAYBILL AND
THE RECEIPT FOR THE CARGO ARE PRIMA FACIE EVIDENCE OF THE
CONCLUSION OF THE CONTRACT, OF THE RECEIPT OF THE CARGO AND OF
THE CONDITIONS OF CARRIAGE MENTIONED THEREIN. (2) ANY STATEMENTS
IN THE AIR WAYBILL RELATING TO THE WEIGHT, DIMENSIONS AND PACKING
OF THE CARGO, AS WELL AS THOSE RELATING TO THE NUMBER OF PACKAGES,
ARE PRIMA FACIE EVIDENCE OF THE FACTS STATED; THOSE RELATING
TO THE QUANTITY, VOLUME AND CONDITION OF THE CARGO DO NOT CON-
STITUTE EVIDENCE AGAINST THE CARRIER EXCEPT SO FAR AS THEY BOTH
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HAVE BEEN, AND ARE STATED IN THE AIR WAYBILL TO HAVE BEEN,
CHECKED BY HIM IN THE PRESENCE OF THE CONSIGNOR, OR RELATE TO THE
APPARENT CONDITION OF THE CARGO. ARTICLE 12. (1) SUBJECT TO HIS
LIABILITY TO CARRY OUT ALL HIS OBLIGATIONS UNDER THE CONTRACT OF
CARRIAGE, THE CONSIGNOR HAS THE RIGHT TO DISPOSE OF THE CARGO
BY WITHDRAWING IT AT THE AIRPORT OF DEPARTURE OR DESTINATION,
OR BY STOPPING IT IN THE COURSE OF THE JOURNEY ON ANY LANDING,
OR BY CALLING FOR IT TO BE DELIVERED AT THE PLACE OF DESTINA-

TION OR IN THE COURSE OF THE JOURNEY TO A PERSON OTHER THAN A
CONSIGNEE ORIGINALLY DESIGNATED, OR BY REQUIRING IT TO BE RETURNED
TO THE AIRPORT OF DEPARTURE. HE MUST NOT EXERCISE THIS RIGHT OF
DISPOSITION IN SUCH A WAY AS TO PREJUDICE THE CARRIER OR OTHER
CONSIGNORS AND HE MUST REPAY ANY EXPENSES OCCASIONED BY THE
EXERCISE OF THIS RIGHT.

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ACTION EB-06

INFO OCT-01 EUR-12 ISO-00 L-02 IO-10 AF-10 ARA-10 EA-10

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R 222047Z OCT 74

FM AMCONSUL MONTREAL

TO SECSTATE WASHDC 5510

UNCLAS SECTION 2 OF 2 MONTREAL 1671

FROM USDEL ICAO, LEGAL COMMITTEE

(2) IF IT IS IMPOSSIBLE TO CARRY OUT THE ORDERS OF THE CONSIGNOR
THE CARRIER MUST SO INFORM HIM FORTHWITH. (3). IF THE CARRIER
OBEYS THE ORDERS OF THE CONSIGNOR FOR THE DISPOSITION OF THE
CARGO WITHOUT REQUIRING THE PRODUCTION OF THE PART OF THE AIR
WAYBILL OR ANY RECEIPT FOR THE CARGO DELIVERED TO THE LATTER,
HE WILL BE LIABLE, WITHOUT PREJUDICE TO HIS RIGHT OF RECOVERY
FROM THE CONSIGNOR, FOR ANY DAMAGE WHICH MAY BE CAUSED THEREBY
TO ANY PERSON WHO IS LAWFULLY IN POSSESSION OF THAT PART OF THE
AIR WAYBILL OR THE RECEIPT FOR THE CARGO. (4) THE RIGHT CONFERRED
ON THE CONSIGNOR CEASES AT THE MOMENT WHEN THAT OF THE CONSIGNEE
BEGINS IN ACCORDANCE WITH ARTICLE 13. NEVERTHELESS, IF THE CONSI-
GNEE DECLINES TO ACCEPT THE CARGO, OR IF HE CANNOT BE COMMUNI-
CATED WITH, THE CONSIGNOR RESUMES HIS RIGHT OF DISPOSITION.
ARTICLE 13. (1) EXCEPT IN THE CIRCUMSTANCES SET OUT IN THE PRE-
CEDING ARTICLE, THE CONSIGNEE IS ENTITLED, ON ARRIVAL OF THE
CARGO AT THE PLACE OF DESTINATION, TO REQUIRE THE CARRIER TO
DELIVER THE CARGO TO HIM, ON PAYMENT OF THE CHARGES DUE AND ON

COMPLYING WITH THE CONDITIONS OF CARRIAGE. (2) UNLESS IT IS OTHERWISE AGREED, IT IS THE DUTY OF THE CARRIER TO GIVE NOTICE TO THE CONSIGNEE AS SOON AS THE CARGO ARRIVES. (3) IF THE CARRIER ADMITS THE LOSS OF THE CARGO, OR IF THE CARGO HAS NOT ARRIVED AT THE EXPIRATION OF SEVEN DAYS AFTER THE DATE ON WHICH IT OUGHT TO HAVE ARRIVED, THE CONSIGNEE IS ENTITLED TO ENFORCE AGAINST THE CARRIER THE RIGHTS WHICH FLOW FROM THE CONTRACT OF UNCLASSIFIED

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CARRIAGE. ARTICLE 14. THE CONSIGNOR AND THE CONSIGNEE CAN RESPECTIVELY ENFORCE ALL THE RIGHTS GIVEN THEM BY ARTICLES 12 AND 13, EACH IN HIS OWN NAME, WHETHER HE IS ACTING IN HIS OWN INTEREST OR IN THE INTEREST OF ANOTHER, PROVIDED THAT HE CARRIES OUT THE OBLIGATIONS IMPOSED BY THE CONTRACT. ARTICLE 15.

(1) ARTICLES 12, 13 AND 14 DO NOT AFFECT EITHER THE RELATIONS OF THE CONSIGNOR OR THE CONSIGNEE WITH EACH OTHER OR THE MUTUAL RELATIONS OF THIRD PARTIES WHOSE RIGHTS ARE DERIVED EITHER FROM THE CONSIGNOR OR FROM THE CONSIGNEE. (2) THE PROVISIONS OF ARTICLES 12, 13 AND 14 CAN ONLY BE VARIED BY EXPRESS PROVISION IN THE AIR WAYBILL OR RECEIPT FOR THE CARGO. NOTE: CANADA RAISED THE QUESTION OF HOW THIS PROVISION, AND OTHERS, WOULD WORK IF NO DOCUMENTATION WAS ISSUED. THEY SUGGESTED THAT THE WORDS "EXPRESS PROVISION IN WRITING" MIGHT SOLVE THE PROBLEM IN THIS INSTANCE. THE QUESTIION IS TO BE LEFT IN THE RECORD FOR CONSIDERATION AT THE DIPLOMATIC CONFERENCE. (3) NOTHING IN THIS CONVENTION PREVENTS THE ISSUE OF A NEGOTIABLE AIR WAYBILL.

ARTICLE 16. (1) THE CONSIGNOR MUST FURNISH SUCH INFORMATION AND SUCH DOCUMENTS AS ARE NECESSARY TO MEET THE FORMALITIES OF CUSTOMS, OCTROI OR POLICE BEFORE THE CARGO CAN BE DELIVERED TO THE CONSIGNEE. THE CONSIGNOR IS LIABLE TO THE CARRIER FOR ANY DAMAGE OCCASIONED BY THE ABSENCE, INSUFFICIENCY OR IRREGULARITY OF ANY SUCH INFORMATION OR DOCUMENTS, UNLESS THE DAMAGE IS DUE TO THE FAULT OF THE CARRIER OR HIS SERVANTS OR AGENTS. (2) THE CARRIER IS UNDER NO OBLIGATION TO ENQUIRE INTO THE CORRECTNESS OR SUFFICIENCY OF SUCH INFORMATION OR DOCUMENTS. END TEXT. IT WAS SUGGESTED THAT TITLE OF SECTION III BE CHANGED TO "DOCUMENTATION RELATING TO CARGO".

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